

13-45-101. Title.

This chapter is known as the "Consumer Credit Protection Act."

Enacted by Chapter 344, 2006 General Session

13-45-102. Definitions.

As used in this chapter:

- (1) "Consumer" means a natural person.
- (2) "Consumer reporting agency" means a person who, for fees, dues, or on a cooperative basis, regularly engages in whole or in part in the practice of assembling or evaluating information concerning a consumer's credit or other information for the purpose of furnishing a credit report to another person.
- (3) "Credit report" means a consumer report, as defined in 15 U.S.C. Sec. 1681a, that is used or collected in whole or part for the purpose of serving as a factor in establishing a consumer's eligibility for credit for personal, family, or household purposes.
- (4) "Normal business hours" means Sunday through Saturday, between the hours of 6:00 a.m. and 9:30 p.m., Mountain Standard or Mountain Daylight Time.
- (5) (a) "Personal information" means personally identifiable financial information:
 - (i) provided by a consumer to another person;
 - (ii) resulting from any transaction with the consumer or any service performed for the consumer; or
 - (iii) otherwise obtained by another person.
- (b) "Personal information" does not include:
 - (i) publicly available information, as that term is defined by the regulations prescribed under 15 U.S.C. Sec. 6804; or
 - (ii) any list, description, or other grouping of consumers, and publicly available information pertaining to the consumers, that is derived without using any nonpublic personal information.
- (c) Notwithstanding Subsection (5)(b), "personal information" includes any list, description, or other grouping of consumers, and publicly available information pertaining to the consumers, that is derived using any nonpublic personal information other than publicly available information.
- (6) "Proper identification" has the same meaning as in 15 U.S.C. Sec. 1681h(a)(1), and includes:
 - (a) the consumer's full name, including first, last, and middle names and any suffix;
 - (b) any name the consumer previously used;
 - (c) the consumer's current and recent full addresses, including street address, any apartment number, city, state, and ZIP code;
 - (d) the consumer's social security number; and
 - (e) the consumer's date of birth.
- (7) "Security freeze" means a prohibition, consistent with Section 13-45-201, on a consumer reporting agency's furnishing of a consumer's credit report to a third party intending to use the credit report to determine the consumer's eligibility for credit.

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13-45-201. Security freeze.

(1) A consumer may place a security freeze on the consumer's credit report by:

- (a) making a request to a consumer reporting agency in writing by certified mail;
- (b) providing proper identification; and
- (c) paying the fee required by the consumer reporting agency in accordance with Section 13-45-204.

(2) If a security freeze is in place, a consumer reporting agency may not release a consumer's credit report, or information from the credit report, to a third party that intends to use the information to determine a consumer's eligibility for credit without prior authorization from the consumer.

(3) (a) Notwithstanding Subsection (2), a consumer reporting agency may communicate to a third party requesting a consumer's credit report that a security freeze is in effect on the consumer's credit report.

(b) If a third party requesting a consumer's credit report in connection with the consumer's application for credit is notified of the existence of a security freeze under Subsection (3)(a), the third party may treat the consumer's application as incomplete.

(4) Upon receiving a request from a consumer under Subsection (1), the consumer reporting agency shall:

(a) place a security freeze on the consumer's credit report within five business days after receiving the consumer's request;

(b) send a written confirmation of the security freeze to the consumer within 10 business days after placing the security freeze; and

(c) provide the consumer with a unique personal identification number or password to be used by the consumer when providing authorizations for removal or temporary removal of the security freeze under Section 13-45-202.

(5) A consumer reporting agency shall require proper identification of the consumer requesting to place, remove, or temporarily remove a security freeze.

(6) (a) A consumer reporting agency shall develop a contact method to receive and process a consumer's request to place, remove, or temporarily remove a security freeze.

(b) A contact method under Subsection (6)(a) shall include:

(i) a postal address;

(ii) an electronic contact method chosen by the consumer reporting agency, which may include the use of fax, Internet, or other electronic means; and

(iii) the use of telephone in a manner that is consistent with any federal requirements placed on the consumer reporting agency.

(7) A security freeze placed under this section may be removed only in accordance with Section 13-45-202.

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13-45-202. Removal of security freeze -- Requirements and timing.

(1) A consumer reporting agency may remove a security freeze from a consumer's credit report only if:

(a) (i) the consumer reporting agency receives the consumer's request through a contact method established and required in accordance with Subsection 13-45-201(6); and

(ii) the consumer reporting agency receives the consumer's proper identification and:

(A) other information sufficient to identify the consumer; or

(B) the consumer provides the consumer's personal identification number or password; or

(b) the consumer makes a material misrepresentation of fact in connection with the placement of the security freeze and the consumer reporting agency notifies the consumer in writing before removing the security freeze.

(2) (a) A consumer reporting agency shall temporarily remove a security freeze upon receipt of:

(i) the consumer's request through the contact method established by the consumer reporting agency in accordance with Subsection 13-45-201(6);

(ii) the consumer's proper identification and:

(A) other information sufficient to identify the consumer; or

(B) personal identification number or password;

(iii) a specific designation of the period of time for which the security freeze is to be removed; and

(iv) the consumer reporting agency receives the payment of any fee required under Section 13-45-204.

(b) A consumer reporting agency shall remove a security freeze from a consumer's credit report within:

(i) three business days after the business day on which the consumer's written request to remove the security freeze is received by the consumer reporting agency at the postal address chosen by the consumer reporting agency in accordance with Subsection 13-45-201(6); or

(ii) 15 minutes after the consumer's request is received by the consumer reporting agency through the electronic contact method chosen by the consumer reporting agency in accordance with Subsection 13-45-201(6), or the use of telephone, during normal business hours and includes the consumer's proper identification and correct personal identification number or password.

(3) A consumer reporting agency need not remove a security freeze within the time provided in Subsection (2)(b)(ii) if:

(a) the consumer fails to meet the requirements of Subsection 13-45-202(1); or

(b) the consumer reporting agency's ability to remove the security freeze within 15 minutes is prevented by:

(i) an act of God, including fire, earthquakes, hurricanes, storms, or similar natural disaster or phenomena;

(ii) unauthorized or illegal acts by a third party, including terrorism, sabotage, riot, vandalism, labor strikes or disputes disrupting operations, or similar occurrence;

(iii) operational interruption, including electrical failure, unanticipated delay in equipment or replacement part delivery, computer hardware or software failures inhibiting response time, or similar disruption;

(iv) governmental action, including emergency orders or regulations, judicial or

law enforcement action, or similar directives;

(v) regularly scheduled maintenance, during other than normal business hours, of, or updates to, the consumer reporting agency's systems;

(vi) commercially reasonable maintenance of, or repair to, the consumer reporting agency's systems that is unexpected or unscheduled; or

(vii) receipt of a removal request outside of normal business hours.

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13-45-203. Exceptions.

(1) Notwithstanding Section 13-45-201, a consumer reporting agency may furnish a consumer's credit report to a third party if:

(a) (i) the purpose of the credit report is to:

(A) use the credit report for purposes permitted under 15 U.S.C. Sec. 1681b(c);
or

(B) review the consumer's account with the third party, including for account maintenance or monitoring, credit line increases, or other upgrades or enhancements;
or

(C) collect on a financial obligation owed by the consumer to the third party requesting the credit report; or

(ii) (A) the purpose of the credit report is to:

(I) review the consumer's account with another person; or

(II) collect on a financial obligation owed by the consumer to another person;
and

(B) use the credit report for purposes permitted under 15 U.S.C. Sec. 1681b(c);
or

(b) the third party requesting the credit report is a subsidiary, affiliate, agent, assignee, or prospective assignee of the person holding the consumer's account or to whom the consumer owes a financial obligation.

(2) (a) The consumer's request for a security freeze does not prohibit the consumer reporting agency from disclosing the consumer's credit report for other than credit related purposes consistent with the definition of credit report found in Section 13-45-102.

(b) The following list identifies the types of credit report disclosures by consumer reporting agencies to third parties that are not prohibited by a security freeze:

(i) the third party does not use the credit report for the purpose of serving as a factor in establishing a consumer's eligibility for credit;

(ii) the third party is acting under a court order, warrant, or subpoena requiring release of the credit report;

(iii) the third party is a child support agency, or its agent or assignee, acting under Part D, Title IV of the Social Security Act or a similar state law;

(iv) the federal Department of Health and Human Services or a similar state agency, or its agent or assignee, investigating Medicare or Medicaid fraud;

(v) (A) the purpose of the credit report is to investigate or collect delinquent taxes, assessments, or unpaid court orders; and

(B) the third party is:

- (I) the federal Internal Revenue Service;
 - (II) a state taxing authority;
 - (III) the Department of Motor Vehicles;
 - (IV) a county, municipality, or other entity with taxing authority;
 - (V) a federal, state, or local law enforcement agency; or
 - (VI) the agent or assignee of any entity listed in Subsections (1)(b) and (2)(b)(v)(B);
 - (vi) the third party is administering a credit file monitoring subscription to which the consumer has subscribed; or
 - (vii) the third party requests the credit report for the sole purpose of providing the consumer with a copy of the consumer's credit report or credit score upon the consumer's request.
- (3) Section 13-45-201 does not apply to:
- (a) a consumer reporting agency, the sole purpose of which is to resell credit information by assembling and merging information contained in the database of another consumer reporting agency and that does not maintain a permanent database of credit information from which a consumer's credit report is produced;
 - (b) a check services or fraud prevention services company that issues:
 - (i) reports on incidents of fraud; or
 - (ii) authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payment; or
 - (c) a deposit account information service company that issues reports concerning account closures based on fraud, substantial overdrafts, automated teller machine abuse, or similar information concerning a consumer to a requesting financial institution for the purpose of evaluating a consumer's request to create a deposit account.
- (4) Nothing in this chapter prohibits a person from obtaining, aggregating, or using information lawfully obtained from public records in a manner that does not otherwise violate this chapter.

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13-45-204. Fees for security freeze.

- (1) Except as provided in Subsection (2), a consumer reporting agency may charge a reasonable fee to a consumer for placing and temporarily removing a security freeze.
- (2) A consumer reporting agency may not charge a fee for placing or removing a security freeze if:
- (a) the consumer is a victim of identity fraud under Section 76-6-1102; and
 - (b) the consumer provides the consumer reporting agency with a valid copy of a police report or police case number documenting the identity fraud.

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13-45-205. Changes to information in a credit report subject to a security freeze.

(1) If a credit report is subject to a security freeze, a consumer reporting agency shall notify the consumer who is the subject of the credit report within 30 days if the consumer reporting agency changes the consumer's:

- (a) name;
- (b) date of birth;
- (c) Social Security number; or
- (d) address.

(2) (a) Notwithstanding Subsection (1), a consumer reporting agency may make technical modifications to information in a credit report that is subject to a security freeze without providing notification to the consumer.

(b) Technical modifications under Subsection (2)(a) include:

- (i) the addition or subtraction of abbreviations to names and addresses; and
- (ii) transpositions or corrections of incorrect numbering or spelling.

(3) When providing notice of a change of address under Subsection (1), the consumer reporting agency shall provide notice to the consumer at both the new address and the former address.

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13-45-301. Protection of personal information.

(1) Except as allowed by other law, a person may not display a Social Security number in a manner or location that is likely to be open to public view.

(2) The state, or a branch, agency, or political subdivision of the state, may not employ or contract for the employment of an inmate in any Department of Corrections facility or county jail in any capacity that would allow any inmate access to any other person's personal information.

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13-45-401. Enforcement.

(1) The attorney general may enforce this chapter's provisions.

(2) A person who violates this chapter's provisions is subject to a civil fine of:

- (a) no greater than \$2,500 for a violation or series of violations concerning a specific consumer; and
- (b) no greater than \$100,000 in the aggregate for related violations concerning more than one consumer.

(3) In addition to the penalties provided in Subsection (2), the attorney general may seek injunctive relief to prevent future violations of this chapter in:

- (a) the district court located in Salt Lake City; or
- (b) the district court for the district in which resides a consumer who is the subject of a credit report on which a violation occurs.

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